



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 12 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steven Luper, Manager
Lebanon Scrap Metals
790 Cainsville Road
Lebanon, Tennessee 37087

Re: Administrative Order CAA-04-2015-1777

Dear Mr. Luper:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at (312) 886-0243.

Sincerely,

A handwritten signature in cursive script that reads "Sara Breneman".

Sara Breneman
Chief
Air Enforcement and Compliance Assurance Branch

cc: Chris Moran, Tennessee Department of Environment & Conservation

Enclosure:

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

In the Matter of:)	Docket No. CAA-04-2015-1777
)	
Lebanon Scrap Metals, LLC)	Proceeding Under Sections 113(a)(3) and
Lebanon, Tennessee)	114(a)(1) of the Clean Air Act,
)	42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)
_____)	

Administrative Consent Order

1. The Director of the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency (EPA), Region 4, is issuing this Administrative Consent Order (Order) to Lebanon Scrap Metals (Lebanon), 790 Cainsville Road, Lebanon, Tennessee, under Section 113(a)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1). This Order is being entered into voluntarily and shall not be modified except by a subsequent written agreement between EPA and Lebanon.

Statutory and Regulatory Background

2. Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Subchapter VI of the CAA to any person who has violated or is violating any requirement of that subchapter. The Administrator of EPA has delegated her order authority to each of EPA's Regional Administrators (EPA Delegation Manual, Chapter 7, Section 7-6-A). The Regional Administrator of EPA, Region 4, has redelegated her order authority to the Director of Region 4's Air, Pesticides and Toxics Management Division (EPA Region 4 Delegation 7-6-A).

3. The Administrator of EPA may require any person who owns or operates an emission source to make reports and provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator of EPA has delegated

her information gathering authority to the Regional Administrator of EPA, Region 4, who has in turn delegated her information gathering authority to the Director of Region 4's Air, Pesticides and Toxics Management Division (EPA Delegation's Manual, Chapter 7, Section 7-8; EPA Region 4 Delegation 7-8).

4. Subchapter VI of the CAA, 42 U.S.C. § 7671, *et seq.* provides for the protection of stratospheric ozone. Section 608(b) of the CAA, 42 U.S.C. § 7671g(b) provides EPA with the authority to regulate the safe disposal of Class I and II substances. Class I and II substances include refrigerants containing chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). EPA promulgated regulations covering the safe disposal of CFCs and HCFCs from small appliances, motor vehicle air conditioners (MVACs), and MVAC-like appliances at 58 Fed. Reg. 28660 (May 14, 1993). These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 40 C.F.R. Part 82, Subpart F.

5. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances, room air conditioners, MVACs, and MVAC-like appliances must either recover any remaining refrigerant in accordance with the procedures set forth in the regulations or verify, including the use of signed statements or contract, that any refrigerant that has not leaked previously has been properly recovered prior to receipt of the small appliance or MVAC. See 40 C.F.R. § 82.156(f). If verification statements are used then the scrap recycler must notify the suppliers of the small appliance or MVAC of the need to properly recover the refrigerant. See 40 C.F.R. § 82.156(f)(3). The scrap recycler must keep verification statements on-site for a minimum of three years. See 40 C.F.R. § 82.166(i) and (m).

6. EPA's regulations for the protection of stratospheric ozone, recycling and

emissions reduction define “person” to include any individual or legal entity. See 40 C.F.R. § 82.152.

7. EPA’s regulations for the protection of stratospheric ozone, recycling and emissions reduction define “disposal” as “the process leading to and including: (1) the discharge, deposit, dumping or placing of any discarded appliance into or on any land or water; (2) the disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water; or (3) the disassembly of any appliance for reuse of its component parts.” See 40 C.F.R. § 82.152.

8. EPA’s regulations for the protection of the stratospheric ozone, recycling and emissions reduction define a “small appliance” as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of a Class I or Class II substance used as a refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners and packaged terminal air heat pumps), dehumidifiers, under the counter ice makers, vending machines, and drinking water coolers. See 40 C.F.R. § 82.152.

9. EPA’s regulations for the protection of stratospheric ozone, recycling and emissions reduction define “MVAC” as mechanical vapor compression refrigeration equipment used to cool the driver’s or passenger’s compartment of any motor vehicle. See 40 C.F.R. §§ 82.32 and 82.152.

Findings

10. Lebanon owns and operates a scrap metal recycling facility at 790 Cainsville Road, Lebanon, Tennessee (the Facility).

11. Lebanon is a company organized and doing business in Tennessee.
12. Lebanon is a "person," as defined by 40 C.F.R. § 82.152.
13. Lebanon is a person who takes the final step in the disposal process of small appliances, MVACs, or MVAC-like appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.
14. On May 7, 2014, EPA inspected the Facility to assess Lebanon's compliance with the CAA. During this inspection, EPA observed:
 - a. Stacked condensers and a bin of cut copper tubing in Lebanon's warehouse;
 - b. Several stacked white goods in Lebanon's main scrap pile, some of which were intact;
 - c. A cage of small appliances, including a refrigerator and room air conditioning unit;
 - d. Many wrecked vehicles in Lebanon's yard; and
 - e. Compressors next to Lebanon's scale, one of which had cut lines.
15. On May 7, 2014, Lebanon representatives stated that it does not recover refrigerant, uses signed statements and requires cut lines on appliances prior to accepting them.
16. Lebanon has accepted small appliances and MVACs without either recovering refrigerant or obtaining verification statements that met the requirements of 40 C.F.R. § 82.156(f) for these small appliances and/or MVACs.
17. On September 15, 2014, EPA issued to Lebanon a Finding of Violation alleging that it had violated 40 C.F.R. § 82.156(f) because it did not recover refrigerant from small appliances and MVACs and did not obtain proper verification statements.
18. On October 15, 2014, representatives from Lebanon and EPA discussed the

alleged violations in the Finding of Violation.

19. Following the October 15, 2014, discussions and subsequent correspondence with EPA, Lebanon developed and implemented procedures across the Facility, which have brought Lebanon into compliance with applicable EPA regulations set forth at 40 C.F.R. §§ 82.156 and 82.166.

Compliance Program

20. By the effective date of this Order, Lebanon must achieve, demonstrate and maintain compliance with 40 C.F.R. Part 82, Subpart F at its Lebanon, Tennessee facility. Additionally, Lebanon must take the following actions by the dates specified and maintain compliance with paragraphs 21 through 32, below, for one year after the effective date of this Order for any small appliance, MVAC, or MVAC-like appliance that it receives at its facility. Attachment 1 summarizes the compliance actions Lebanon has agreed to implement.

21. Lebanon must not accept small appliances, MVACs, or MVAC-like appliances with cut or dismantled refrigerant lines if it knows or has reason to know that the refrigerant has not been properly recovered in accordance with 40 C.F.R. § 82.156(g) and (h).

22. Lebanon must not accept small appliances, MVACs, or MVAC-like appliances with cut or dismantled refrigerant lines unless its supplier can certify, using a verification statement included as Attachment 2 to this Order, that the refrigerant was properly recovered. For suppliers with whom Lebanon has had a long-standing business relationship, this requirement may be satisfied by Lebanon entering into the contract included as Attachment 3 to this Order.

23. Lebanon agrees to use Attachment 2 and Attachment 3 to this Order, which are hereby incorporated by reference, to comply with the requirement to obtain a signed statement,

as set forth in paragraph 22 above and maintain records for three years according to 40 C.F.R. § 82.166(i) and (m).

24. Lebanon may only accept small appliances with intact refrigerant lines provided it uses refrigerant recovery equipment as described in paragraphs 28 through 29, below, to remove any remaining refrigerant.

25. Lebanon may only accept MVACs with intact refrigerant lines (1) if it has recovery equipment, or (2) if each intact MVAC is tested to verify that no remaining refrigerant is present. If the pressure test indicates that no refrigerant remains in the system, the verification statement included as Attachment 2 to this Order shall be completed indicating that refrigerant leaked due to age or condition as determined by pressure test. If pressure remains in the system, then Lebanon must either (1) reject the unit until such time the supplier can provide a completed verification statement, or (2) use refrigerant recovery equipment as described in paragraphs 28 through 29, below, to remove any remaining refrigerant.

26. By the effective date of this Order, Lebanon must notify its suppliers in writing that it will not accept small appliances, MVACs, or MVAC-like appliances with cut or dismantled refrigerant lines, unless the suppliers can certify that the refrigerant was properly recovered prior to cutting or dismantling the refrigerant lines using the verification statement included as Attachment 2 to this Order or the contract included as Attachment 3 to this Order.

27. By the effective date of this Order, Lebanon must notify its suppliers in writing that it will provide refrigerant recovery services. Lebanon may satisfy the notice requirements of paragraphs 26 and 27 with a sign that is prominently displayed at its weigh station during the period of time that this Order is effective.

28. By the effective date of this Order, Lebanon will purchase and use equipment, or

contract the services of a trained individual, to recover refrigerant from small appliances, MVACs, and MVAC-like appliances.

29. Lebanon must have the refrigerant recovered by a properly trained individual. If that individual is an employee of Lebanon, it will ensure that the individual is properly trained to use the equipment identified in paragraph 28.

30. By the effective date of this Order, Lebanon must use the small appliance / MVAC/MVAC-like appliance refrigerant recovery log included as Attachment 4. Lebanon must retain copies of receipts for all refrigerant it collects and sends to another company for reclamation. Lebanon must also document the number of small appliances, MVACs, or MVAC-like appliances it rejects, the date the appliance was rejected, and the reason for rejecting the item(s).

31. Within six months of the effective date of this Order and at one year of the effective date of this Order, Lebanon must provide EPA with proof of its compliance with the notice requirements of paragraphs 26 and 27, that it purchased the equipment required by paragraph 28, and has an individual trained in recovering refrigerant as required by paragraph 29.

32. Within six months of the effective date of this Order and at one year of the effective date of this Order, Lebanon must submit to EPA a copy of its small appliance / MVAC /MVAC-like appliance refrigerant recovery log, the information required by paragraph 30, above, and any verification statements and contracts used pursuant to this Order.

33. Lebanon must send all reports required by this Order to:

Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
EPA, Region 5
77 West Jackson
Chicago, Illinois 60604

General Provisions

34. This Order does not affect Lebanon's responsibility to comply with other federal, state and local laws.

35. This Order does not restrict EPA's authority to enforce any section of the CAA.

36. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for Lebanon's violation of the CAA.

37. Failure to comply with this Order may subject Lebanon to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

38. The terms of this Order are binding on Lebanon, its assignees and successors. Lebanon must give notice of this Order to any successors in interest prior to transferring ownership of the Facility and must simultaneously verify to EPA, at the above address, that it has given the notice.

39. Lebanon may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Lebanon fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B.

40. This order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities

as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

41. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

42. Lebanon agrees to the terms of this Order.

43. Lebanon neither admits nor denies the factual allegations and conclusions of law set forth above in this Order.

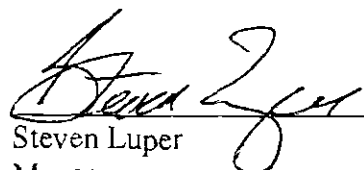
44. Lebanon waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Lebanon may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307 of the Act, 42 U.S.C. § 7607.

45. This Order is effective on the date of signature by the Director of the Air, Pesticides and Toxics Management Division.

46. This Order expires one year after the effective date of this Order, provided that Lebanon has complied with all terms of the Order throughout its duration.

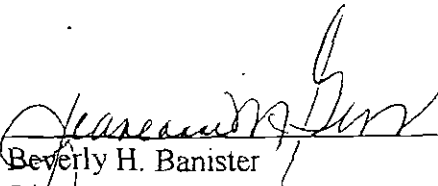
**Administrative Consent Order
Lebanon Scrap Metals**

4-13-15
Date


Steven Luper
Manager
Lebanon Scrap Metals

**Administrative Consent Order
Lebanon Scrap Metals**

4-24-15
Date


Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division
U.S. Environmental Protection Agency, Region 4

Lebanon Scrap Metals

Refrigerant Handling Compliance Plan

1. Acceptance of Material

- A. Lebanon Scrap Metals will not accept any small appliances or vehicles with cut or dismantled refrigerant lines if it knows or has reason to know that the refrigerant was not properly recovered.
- B. Lebanon Scrap Metals will accept small appliances and vehicles with intact refrigerant lines and will recover any remaining refrigerant at no additional cost to customers.
- C. Lebanon Scrap Metals will accept small appliances and vehicles with compliant verification statements proving refrigerant has been properly recovered, or from sellers with whom Lebanon Scrap Metals has a contract in place stating that refrigerant will be properly recovered prior to delivery.
- D. For vehicles where the customer claims the refrigerant previously leaked, Lebanon Scrap Metals will perform a pressure test:
 - i. If pressure test indicates no refrigerant is present, a compliant verification statement must indicate that the refrigerant leaked due to age or condition as determined by pressure test.
 - ii. If a pressure test shows that refrigerant is present in the system, Lebanon Scrap Metals will recover the refrigerant from vehicle, or will reject the vehicle until the seller can provide a compliant verification statement.

2. Documentation

- A. Lebanon Scrap Metals will document the number of small appliances or vehicles it rejects, the date the appliance was rejected, and the reason for rejecting the item(s).
- B. Lebanon Scrap Metals will keep a log of refrigerant recovery activity, and receipts of refrigerant sale or disposal.
- C. Lebanon Scrap Metals will keep all verification statements and contracts on file.

3. Notifying Suppliers

- A. Lebanon Scrap Metals will notify its suppliers in writing, using signage, that:
 - i. Lebanon Scrap Metals will not accept small appliances or vehicles with cut or dismantled refrigerant lines without a verification statement proving refrigerant was recovered before the lines were cut or dismantled.
 - ii. Lebanon Scrap Metals will recover refrigerant from small appliances and vehicles. This service will be provided to customers at no additional cost.

4. Training

- A. Lebanon Scrap Metals will ensure that the individual performing refrigerant recovery has been trained on how to operate the refrigerant recovery equipment in accordance with manufacturer's specifications.



Lebanon Scrap Metals
790 Cainsville Rd.
Lebanon, TN, 37047
(615) 493-3508

VERIFICATION OF REFRIGERANT REMOVAL

I certify that all refrigerant and substitutes (including but not limited to chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs) as defined in Section 608 of the Clean Air Act Amendments and 40 CFR Part 82) that have not leaked previously have been recovered in accordance with the federal regulations on refrigerant recycling at 40 C.F.R. Part 82, Subpart F, from the appliances delivered under this sale.

The refrigerant has been recovered as follows:

Name of person
recovering refrigerant: _____

Address of person
recovering refrigerant: _____

Date refrigerant recovered: _____

Seller's Signature

Seller's name (print)

Date



Lebanon Scrap Metals
790 Cambridge Rd
Lebanon, TN 37037
(615) 443-3208

Refrigerant Recovery Contract

[Company or I] hereby certifies(y) and agree that [it or I] shall be responsible for properly recovering or ensuring the proper recovery of any refrigerants (including Freon) prior to delivering any appliances and motor vehicle air conditioning systems to [Company Name], [Company City], Tennessee, in accordance with EPA regulations found at 40 C.F.R. § 82.156.

Company Name

Company Address

Company Representative – Print Name

Lebanon Scrap
Metals

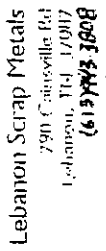
Representative – Print Name

Signature

Date

Signature

Date

[illegible]

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, CAA04-2015-1777, by certified mail, return receipt requested, to:

Steven Luper, Manager
Lebanon Scrap Metals
790 Cainsville Road
Lebanon, Tennessee 37087

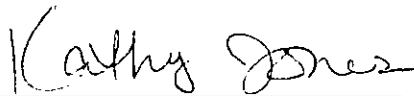
I also certify that I sent a copy of the Administrative Consent Order, CAA04-2015-1777, by first-class mail to:

Chris Moran, Enforcement Coordinator
Tennessee Department of Environment & Conservation
William R. Snodgrass Tennessee Tower, 2nd Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243

I also certify that I sent a copy of the Administrative Consent Order, CAA04-2015-1777, by email to:

Beverly Spagg, Region 4
Spagg.beverly@epa.gov

On the 13th day of MAY 2015.


for Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7009 1680 0000 7644 3241